

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1799 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BHARATKUMAR RAMANLAL PATEL

Versus

AGRICULTURAL PRODUCE MARKET COMMITTEE

Appearance:

MR MUKESH R SHAH for Petitioner

MR BN PATEL for Respondent No. 1

MS MANISHA LAVKUMAR, AGP, for Respondent No. 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/06/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The services of the petitioner were brought to an
end under the order dated 4-3-1991 on the ground that in

the Selection Committee in which he was selected, his father was one of the members. The petitioner was appointed after selection on the post of Class-IV in the office of the Agricultural Produce Market Committee at Bayad. The Director of Agricultural Marketing and Rural Finance found that in the Selection Committee which selected the petitioner, his father was a member and it was taken to be a selection in violation of the principles of natural justice and fairplay and accordingly a direction was given to the respondent No.1 to terminate his services and that is how his services were terminated.

3. Learned counsel for the petitioner contended that the petitioner was a permanent employee and his services could not have been terminated in the way in which what it has been done in the present case. It has next been contended that the Director has given direction for termination of the services of the petitioner but that copy of the order has not been given to him. Lastly, it is contended that the petitioner is in service since 1987 and now he may be protected by this court as under the Court's order he is continuing.

4. Learned counsel for the respondents supported the orders passed by the respondent No.1.

5. In the special civil application, the petitioner has not stated that his father was not the member of the Selection Committee. It is not the case of the petitioner that while the petitioner was interviewed by the Selection Committee, his father withdrew himself from the Committee. The petitioner is known of all these facts and when he has not controverted all these facts, it is to be taken that his father was there in the Selection Committee. His father had not withdrawn from the Committee when the case of the petitioner was being considered for selection. In view of these facts, whole of the selection of the petitioner vitiates only on this ground and rightly his services have been brought to an end. It is not gainsay to state that the ground on which the petitioner's services have been terminated has been specifically mentioned in the order and the petitioner has not controverted the same. In view of this fact, it was not necessary for the respondents to give any notice or opportunity of hearing to the petitioner. When the petitioner accepted as a fact the ground on which his services was terminated, I fail to see what for the opportunity of hearing has to be granted. Otherwise also, the petitioner has failed to show how he could have assailed this order of the respondent No.1. The

selection of the petitioner is wholly void and this appointment made as a result thereof cannot be allowed to stand and rightly it has been terminated.

6. So far as the contention of the petitioner that for all these years he is continuing under stay order and he may be protected, it is suffice to say that it ultimately merges in the final order. Merely because the petitioner has been protected by this court by granting interim relief in his favour it will not give any right to him to continue on the post and more so where his appointment was wholly void.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

zgs/-